

1 Defendant Pro Se

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6

7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF OREGON
9

10 CLASSIC BUSINESS GROUP, a New York
11 limited liability company, dba OMNI MOTORS,

12 Plaintiff,

13 vs.

14 DAVID LAWRENCE PREIM,

15 Defendant.

Civil Action No. 3:17-cv-01710-SI

DEFENDANT'S ANSWER, WITH
AFFIRMATIVE DEFENSES, AND
COUNTERCLAIMS

(Breach of Contract and Breach of the
Implied Covenant of Good Faith; Fraud
and Conspiracy to Defraud; Intentional
Infliction of Emotional Distress)

16 COMES NOW, Defendant David Lawrence Preim ("Defendant"), appearing pro se herein, and in
17 answer and response to the Complaint presented herein by Plaintiff, alleges and avers to the Court as
18 follows:

19 1.

20 Defendant admits the allegations of Paragraph 1 of Plaintiff's Complaint.

21 2.

22 Defendant admits the allegations of Paragraph 2 of Plaintiff's Complaint.

23 3.

24 Paragraph 3 of Plaintiff's Complaint contains multiple, compound and conclusory allegations;
25 Paragraph 3 further purports to introduce hearsay without laying a proper foundation for the same;
26 Defendant therefore denies the multiple, compound and conclusory allegations of Paragraph 3.

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4.

Defendant admits the allegations of Paragraphs 4 through 10 inclusive of Plaintiff's Complaint.

5.

Defendant denies the allegations of Paragraph 11 of Plaintiff's Complaint.

6.

Defendant admits the allegations of Paragraphs 12 through 14 inclusive of Plaintiff's Complaint.

7.

Defendant denies the allegations of Paragraph 15 of Plaintiff's Complaint, based upon a lack of specificity; technically, a ten-year period is a matter of "days" - approximately 3, 652 of them.

8.

Paragraph 16 of Plaintiff's Complaint contains multiple, compound and conclusory allegations; Defendant therefore denies the multiple, compound and conclusory allegations of Paragraph 16.

9.

Defendant denies the allegations of Paragraph 17 of Plaintiff's Complaint.

10.

Paragraph 18 of Plaintiff's Complaint requires no response from Defendant.

11.

Defendant admits the allegations of Paragraphs 19 and 20 of Plaintiff's Complaint.

12.

Defendant denies the allegations of Paragraphs 21 through 24 inclusive of Plaintiff's Complaint.

13.

Paragraph 25 of Plaintiff's Complaint requires no response from Defendant.

14.

Defendant admits the allegations of Paragraphs 26 and 27 of Plaintiff's Complaint.

15.

Defendant denies the allegations of Paragraphs 28 and 29 of Plaintiff's Complaint.

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16.

Paragraph 30 of Plaintiff's Complaint requires no response from Defendant.

17.

Defendant denies the allegations of Paragraphs 31 through 33 inclusive of Plaintiff's Complaint.

18.

Paragraph 34 of Plaintiff's Complaint requires no response from Defendant.

19.

Defendant denies the allegations of Paragraphs 35 through 37 inclusive of Plaintiff's Complaint.

20.

Paragraphs 38 and 39 of Plaintiff's Complaint requires no response from Defendant.

21.

Defendant admits the allegations of Paragraph 40 of Plaintiff's Complaint.

22.

Defendant denies the allegations of Paragraphs 41 and 42 of Plaintiff's Complaint.

23.

Paragraph 43 of Plaintiff's Complaint requires no response from Defendant

AND FOR A FIRST AFFIRMATIVE DEFENSE:

Unclean Hands

24.

The Plaintiff's claims against Defendant, are barred, in whole or in part, by the common-law legal doctrine of unclean hands. Plaintiff is attempting to benefit from its wrongdoing; Plaintiff however, through its actions as will be fully set forth at trial, has breached the clean hands requirement, and its wrongful and illegal conduct, accordingly precludes Plaintiff from seeking to invoke this court's equitable jurisdiction.

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1 32.

2 On or About September 12, 2017, Plaintiff had remitted directly to Defendant, a cashier's check
3 in the sum of \$79,853, paid to the order of Mercedes-Benz of Beaverton, for the purchase of a 2018
4 Mercedes automobile.

5 33.

6 The Defendant, timely paid over the cashier's check to Mercedes-Benz of Beaverton, took
7 delivery of a 2018 Mercedes, and timely delivered the same along with all purchase paperwork, over to
8 Plaintiff's representatives.

9 34.

10 At the time of executing the documents necessary to complete the purchase of the vehicle from
11 Mercedes-Benz of Beaverton, Defendant signed numerous sub-agreements and covenants. Upon
12 information and belief, included in these documents, was a document entitled "Acknowledgment of
13 Export Policy", or something essentially similar.

14 35.

15 The said Acknowledgment of Export Policy - in essence - obligates the purchaser to reimburse
16 the manufacturer and/or the retailer of the vehicle, a sum in the tens of thousands of dollars as liquidated
17 damages, in the event that the vehicle is removed from the sales territory of the manufacturer within the
18 first year of ownership.

19 36.

20 Defendant first became aware of the likely existence of this Acknowledgment of Export Policy,
21 was when he was presented with a copy of one, as a separate, post agreement document, after the
22 \$105,570 cashier's check had already been sent by Plaintiff, via FedEx, to the dealership referenced in
23 Paragraph 13 of the Plaintiff's Complaint. At that point, Defendant had gone to the dealership with the
24 expectation of completing the transaction and obtaining the vehicle which - again - had already been
25 paid for, and payment accepted, when he was informed that he would need to sign this additional
26 document, in order to take delivery of the vehicle. A true copy of the Acknowledgment is attached

1 hereto as Defendant's Exhibit "A" and by reference incorporated fully herein.

2 37.

3 When Defendant quite naturally refused to sign this post-agreement "Acknowledgment"
4 document which would - in essence - indebt him to the sum of \$25,000, the auto dealership refused to
5 deliver the vehicle, and also refused - or were unable - to return the purchase funds to Defendant at that
6 time.

7 38.

8 Defendant then was required to engage in a lengthy arbitration process - on Plaintiff's behest and
9 behalf - to determine whether or not the transaction had been legally consummated, and Defendant was
10 therefore entitled to possession of the vehicle without being required to execute the Acknowledgment.
11 During this period, the auto dealership kept possession of the purchase funds, a fact of which the
12 Plaintiff was aware and to which it acquiesced.

13 39.

14 Despite this knowledge and acquiescence, Plaintiff - by and through its principals - began to
15 harass and implicitly threaten the Defendant, as well as his family, as will be more set forth at trial. A
16 copy of a text message received from one of Plaintiff's principals, naming - and by implication,
17 threatening - Defendant's individual family members, is attached hereto as Defendant's Exhibit "B" and
18 by reference incorporated fully herein.

19 40.

20 Defendant, at this point, thought it prudent to seek legal counsel, and learned - for the first time -
21 that it was likely that the first vehicle transaction had also contained an Acknowledgment of Export
22 Policy, possibly not set off as a separate document, which may have already obligated him to tens of
23 thousands of dollars in damages.

24 41.

25 Defendant also learned for the first time, that the actions which he had agreed to perform for
26 Plaintiff, likely violated both Federal and Oregon laws regarding the registration and exportation of

1 motor vehicles, and that his prior performance of these actions may well have subjected him to
2 significant civil - and even criminal - penalties.

3 42.

4 Plaintiff, for its part, was aware of the illegal nature of the actions which it had contracted
5 Defendant to perform on its behalf, as well as of the nature and existence of the Acknowledgment of
6 Export Policy documents as being a normal part of the purchase of the higher-end automobiles sought by
7 Plaintiff. Plaintiff, for its part, concealed this relevant information from Defendant for its own purposes
8 and benefit and to the detriment of Defendant.

9
10 **AND FOR A FIRST COUNTERCLAIM FOR RELIEF:**

11 **Breach of Contract and Breach of the Implied Covenant of Good Faith**

12 43.

13 Defendant and Counterclaim Plaintiff ("Defendant") repleads and realleges the allegations made
14 in Paragraphs 24 through 42 inclusive hereinabove, and incorporates the same herein as though fully set
15 forth below.

16 44.

17 Defendant alleges that in every contract, in addition to the explicit terms as may be set forth
18 therein, there is an implied covenant of good faith and fair dealing which provides that the parties to said
19 agreement will faithfully follow the terms and provisions required by the contract. Plaintiff, by its actions
20 as set forth above, intentionally, knowingly and wilfully breached both the agreement between the
21 parties, as well as this implied covenant of good faith.

22 45.

23 Plaintiff is therefore in material breach of the Agreement and is also in material breach of the
24 implied covenant of good faith and fair dealing. Defendant is therefore entitled to a judgment and
25 money award in his favor and against Plaintiff in the sum of \$100,000, or such other amounts as may be
26 determined at trial for such breach.

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1 herein as though fully set forth below.

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3 The pre-litigation actions and threats, and intimidation conducted against Defendant by Plaintiff,
4 by and through its principals, were intentional and malicious, said actions were extreme and outrageous,
5 and said actions caused and were intended to cause extreme emotional distress and suffering to
6 Defendant, to damage his personal and professional standing and reputation, and in general, to disrupt
7 Defendant's normal life to the greatest extent possible.

8 51.

9 The tort of intentional infliction of emotional distress has four basic elements:

- 10 (1) the defendant must act intentionally or recklessly;
11 (2) the defendant's conduct must be extreme and outrageous; and
12 (3) the conduct must be the cause
13 (4) of severe emotional distress. Hyatt, 943 S.W.2d at 297.

14 52.

15 The conduct ascribed and attributed to Plaintiff by and through its principals meet all four
16 necessary criteria for a tort claim of Intentional Infliction of Emotional Distress.

17 53.

18 As a direct, proximate and foreseeable result of the actions of Plaintiff, by and through its
19 principals as described above, Defendant is entitled to a money award against Plaintiff in the sum of
20 \$100,000, or such other reasonable sums as may be proven at trial, for intentional infliction of emotional
21 distress.

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1 WHEREFORE, Defendant and Counterclaim Plaintiff David Lawrence Preim requests judgment
2 herein as follows:

3 1. That Plaintiff shall take nothing on its Claims against Defendant; and

4 2. For a money award in his favor and against Plaintiff in the sum of \$100,000, or such other
5 reasonable sums as may be shown at trial for general damages for breach of contract and breach of the
6 implied covenant of good faith; and

7 3. For a money award in his favor and against Plaintiff in the sum of \$100,000, or such other
8 reasonable sums as may be proven at trial, for fraud and conspiracy to defraud; and

9 4. For a money award in his favor and against Plaintiff in the sum of \$100,000, or such other
10 reasonable sums as may be proven at trial, for intentional infliction of emotional distress; and

11 5. For a money award in his favor and against Plaintiff for his reasonably-incurred costs, fees
12 and disbursements herein, including reasonable attorney fees at trial, if any; and

13 6. For such other relief as the Court may deem appropriate under the circumstances.

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15 Dated, this 12 day of January, 2018.

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County of Clackamas

$$\left. \begin{array}{l} \text{) } \\ \text{) } \\ \text{) } \end{array} \right\} \text{SS.}$$

Paul Lawrence Price

David Lawrence Preim - Defendant Pro Se

Date:

1/12/2018

David Laurence Palm

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